

# EXHIBIT 17

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL )  
5 PRESCRIPTION ) MDL No. 2804  
6 OPIATE LITIGATION )  
7 ) Case No.  
8 ) 1:17-MD-2804  
9 )  
10 THIS DOCUMENT RELATES ) Hon. Dan A.  
11 TO: Case Track 8 ) Polster

12 FRIDAY, OCTOBER 6, 2023

13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
14 CONFIDENTIALITY REVIEW

15 - - -

16 Remote videotaped deposition of  
17 Dain Rusk, held at the location of the  
18 witness in Lakeland, Florida, commencing at  
19 10:05 a.m. Eastern Time, on the above date,  
20 before Carrie A. Campbell, Registered  
21 Diplomat Reporter, Certified Realtime  
22 Reporter, Illinois, California & Texas  
23 Certified Shorthand Reporter, Missouri,  
24 Kansas, Louisiana & New Jersey Certified  
25 Court Reporter.

- - -

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29 Publix Super Markets

30 JONATHAN JAFFE, consultant

31 MICHAEL KAUFFMANN, trial technician,  
32 Precision Trial Solutions

33 VIDEOGRAPHER:

34 DAVID LANE,  
35 Golkow Litigation Services

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1 VIDEOGRAPHER: We are now on  
2 the record. My name is David Lane,  
3 videographer for Golkow Litigation  
4 Services.

5 Today's date is October 6,  
6 2023. Our time on the record is  
7 10:05 a.m. Eastern Standard Time.

8 This remote video deposition is  
9 being held in the matter of the opioid  
10 litigation.

11 Our deponent today is Dain  
12 Rusk.

13 All parties to this deposition  
14 are appearing remotely and have agreed  
15 to the witness being sworn in  
16 remotely.

17 Due to the nature of remote  
18 reporting, please pause briefly before  
19 speaking to ensure all parties are  
20 heard completely.

21 Counsel will be noted on the  
22 stenographic record.

23 Our court reporter today is  
24 Carrie Campbell, who will now swear in  
25 our witness.

1                                 DAIN RUSK,  
2     of lawful age, having been first duly sworn  
3     to tell the truth, the whole truth and  
4     nothing but the truth, deposes and says on  
5     behalf of Plaintiffs, as follows:

6

7                                 VIDEOGRAPHER: Please begin.

8                                 DIRECT EXAMINATION

9     QUESTIONS BY MS. CONROY:

10                 Q.         Good morning, Mr. Rusk.

11                 A.         Good morning.

12                 Q.         Good morning.

13                         My name is Jayne Conroy, and I  
14     represent Cobb County in this litigation, and  
15     I'm going to be asking you a number of  
16     questions today.

17                         Have you ever had your  
18     deposition taken before?

19                 A.         I have.

20                 Q.         Okay. How many times?

21                 A.         Twice, I believe.

22                 Q.         Okay. Ever have it by Zoom?

23                 A.         Never.

24                 Q.         Okay. It might actually work a  
25     little bit easier, actually, because we sort



1 would say that the Controlled Substances Act  
2 is regulations and laws that have to be  
3 followed by all pharmacists and pharmacies.

4 Q. And the Controlled Substances  
5 Act is one of those, correct?

6 A. Yes.

7 Q. Do you believe -- or do you  
8 have an understanding of whether Publix's  
9 pharmacies must adhere to the Controlled  
10 Substances Act?

11 MR. HUDSON: Objection. Form.

12 THE WITNESS: I believe our  
13 pharmacists must adhere to the law.

14 QUESTIONS BY MS. CONROY:

15 Q. Okay. That wasn't my question.  
16 I'm asking whether Publix, as  
17 an entity, must adhere to the Controlled  
18 Substances Act.

19 MR. HUDSON: Objection. Form.

20 THE WITNESS: So can you give  
21 me more detail? Maybe you can explain  
22 what you mean by Publix adhering to  
23 the Controlled Substances Act.

24 QUESTIONS BY MS. CONROY:

25 Q. The company itself, is it --

1     does -- must it obey or follow the Controlled  
2     Substances Act, and not just the pharmacists  
3     who are employed by Publix?

4                     MR. HUDSON:   Objection.   Form.  
5                     Calls for a legal conclusion.

6                     THE WITNESS:   Yeah, I would  
7                     certainly have to lean on our legal  
8                     team to understand specifically that  
9                     question.   I feel like I need more  
10                    information to properly answer that.

11   QUESTIONS BY MS. CONROY:

12                    Q.       So you are the vice president  
13                    of pharmacy at Publix, and you're directly  
14                    responsible for ensuring compliance with all  
15                    state and federal laws, rules and regulations  
16                    as they pertain to the business of pharmacy,  
17                    but you would need to rely on your legal team  
18                    to tell you whether or not Publix, as an  
19                    entity, must adhere to the Controlled  
20                    Substances Act?

21                    MR. HUDSON:   Form.

22                    THE WITNESS:   I would have a  
23                    larger team, legal being one of them,  
24                    that I would rely on to have those  
25                    conversations to understand, you

1                   They don't manufacture any  
2   opioids, right?

3           A.       No, we do not.

4           Q.       Does Publix distribute any  
5   controlled substances?

6           A.       Could you define how you're  
7   using "distribute"?

8           Q.       Well, you had talked -- do  
9   they -- do they transfer controlled  
10   substances from one place to another?

11          A.       Yes.

12          Q.       Do they only distribute -- does  
13   Publix only distribute controlled substances  
14   to its own pharmacies?

15          A.       Controlled substances in our  
16   warehouse we only transfer to our own  
17   pharmacies.

18          Q.       So Publix does not distribute  
19   to entities other than its own hospital,  
20   standalone or supermarket pharmacies?

21          A.       Yes. We're not a distributor.  
22   Correct.

23          Q.       When you say you're "not a  
24   distributor," what do you mean by that?

25          A.       Again, that's why I asked how

1     you were defining the word "distributor."

2                     I use distributor as someone  
3     who is distributing to more than one  
4     organization. We are purchasing controlled  
5     substances into our warehouse, and we are  
6     then transferring, inter-department  
7     transferring, them to our stores.

8                     So it's just how we're using  
9     the word. That's why I was asking for  
10    clarification from you.

11            Q.       Okay.

12            A.       Maybe a better way -- we're not  
13    a wholesaler.

14            Q.       Okay. And are you relying on  
15    the legal team for that answer that Publix is  
16    not a wholesaler, or is that something that  
17    you do understand, the state and federal laws  
18    concerning wholesalers?

19                     MR. HUDSON: Objection. Form.

20                     THE WITNESS: I don't know that  
21    I understand the laws. I would  
22    certainly have to ask them. But  
23    that's what I -- you know, as I feel  
24    it, my -- where you transfer products  
25    to our stores.

1 I view distributors as  
2 wholesalers and manufacturers.

3 QUESTIONS BY MS. CONROY:

4 Q. But are you giving me -- are  
5 you giving me a legal answer, or is that your  
6 understanding just factually?

7 A. It's just my view. From a  
8 legal standpoint, I'd have to go to our legal  
9 team to get some advice on that.

10 Q. Does Publix dispense controlled  
11 substances?

12 A. Yes. Publix pharmacies  
13 dispense controlled substances.

14 Q. And those pharmacies, are they  
15 licensed to dispense controlled substances?

16 A. Yes, they are.

17 Q. And is that something within  
18 your responsibilities at Publix, to get  
19 those -- to sign those licenses or somehow  
20 apply and receive those licenses?

21 MR. HUDSON: Objection. Form.

22 THE WITNESS: I do have end --  
23 what I'll call end game responsibility  
24 signing those licenses, but there is a  
25 broader team that conducts the